| 1   | JASON M. FRIERSON  |   |  |
|-----|--|---|--|
|     | United States Attorney   |   |  |
| 2   | Nevada Bar Number 7709   |   |  |
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| 7   | Attorneys for the Ontied States  |   |  |
| '   | UNITED STATES DISTRICT COURT   |   |  |
| 8   | FOR THE DISTRICT OF NEVADA   |   |  |
| 9   | LINITED CTATES OF AMEDICA  | Case No. 2:17-cr-00110-APG-DJA              |  |
| 9   | UNITED STATES OF AMERICA,  | Case No. 2.17-ci-00110-APG-DJA              |  |
| 10  | Plaintiff,   | Stipulation to Continue Restitution Hearing |  |
|     |  | and Sentencings (Fifth Request)             |  |
| 11  | v.   |   |  |
| 12  | PHILLIP D. HURBACE et al.,   |   |  |
| 1.0 |  |   |  |
| 13  | Defendants.  |   |  |
| 14  |  |   |  |
| 15  | IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson,                            |   |  |
| 16  | United States Attorney, through Richard Anthony Lopez and Mina Chang, Assistant United           |   |  |
| 17  |  |   |  |
| 1 / | States Attorneys, counsel for the United States of America, Osvaldo E. Fumo, Esq., counsel for   |   |  |
| 18  | defendant Phillip D. Hurbace, Lisa A. Rasmussen, Esq., counsel for defendant Sylviane Della      |   |  |
| 19  | Whitmore, and Daniel Hill, Esq., counsel for defendant Larry Anthony McDaniel, that the          |   |  |
| 20  | Court continue the restitution hearing scheduled for January 11, 2024, at 2:30 p.m. and the      |   |  |
| 21  | sentencing hearings scheduled for January 17, 2024, at 1:30 p.m., 2:30 p.m., and 3:30 p.m., to a |   |  |
| 22  | date convenient to the Court, preferably the afternoon of February 8, 2024, for the restitution  |   |  |
| 23  | hearing and February 13, 2024, for the sentencings.  |   |  |
| 24  | This Stipulation is entered into for the following reasons:                                      |   |  |

| 1.   | Defendant Hurbace was recently ho  | spitalized in Northern Nevada and is currently   |  |
|--|--|--|--|
| under doctor's orders not to travel, making him unable to be present in Las Vegas for the  |  |  |  |
| currently scheduled restitution and sentencing hearings.   |  |  |  |
| 2.   | 2. On January 5, 2024, Defendant McDaniel filed a motion requesting the            |  |  |
| withdrawal of his current counsel and for appointment of new counsel. A new attorney would   |  |  |  |
| require time to prepare for his sentencing.  |  |  |  |
| 3. All parties and the Court are currently available the proposed dates of February 8,   |  |  |  |
| 2024 (for the restitution hearing) and February 13, 2024 (for the sentencing hearings).  |  |  |  |
| 4. This continuance is not sought for purposes of delay, but to ensure that all parties  |  |  |  |
| can be present at hearings in compliance with Federal Rule of Criminal Procedure 43(a)(3) and  |  |  |  |
| to provide any new counsel adequate time to prepare.   |  |  |  |
| 5.   | 5. For the reasons stated above, the ends of justice would best be served by a     |  |  |
| continuance of the deadline. Denial of this request for continuance of the deadline could result in  |  |  |  |
| a miscarriage of justice.  |  |  |  |
| 6.   | 6. Defendants are out of custody and do not object to the request for continuance. |  |  |
| DATED this 9th day of January, 2024.   |  |  |  |
|  |  | Respectfully submitted,  |  |
| Counsel for Solution   Solution   Counsel for | E. FUMO, ESQ. Defendant HURBACE  ill ILL, ESQ.                                     | JASON M. FRIERSON United States Attorney  /s/ Richard Anthony Lopez RICHARD ANTHONY LOPEZ MINA CHANG |  |
| /s/ Lisa A. R<br>LISA A. RA  | Defendant MCDANIEL  Samussen SMUSSEN, ESQ. Defendant WHITMORE                      | Assistant United States Attorneys  |  |

## 1 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA 2 UNITED STATES OF AMERICA, Case No. 2:17-cr-00110-APG-DJA 3 Plaintiff, 4 [Proposed] Order Granting Stipulation to Continue Restitution Hearing and Sentencings v. 5 (Fifth Request) PHILLIP D. HURBACE et al., 6 Defendants. 7 8 Based on the parties' stipulation to continue the restitution and sentencing hearings, and 9 good cause appearing therefore, the Court hereby finds that: 10 1. Defendant Hurbace was recently hospitalized in Northern Nevada and is currently 11 under doctor's orders not to travel, making him unable to be present in Las Vegas for the 12 currently scheduled restitution and sentencing hearings. 13 2. On January 5, 2024, Defendant McDaniel filed a motion requesting the 14 withdrawal of his current counsel and for appointment of new counsel. A new attorney would 15 require time to prepare for his sentencing. 16 3. All parties and the Court are currently available the proposed dates of February 8, 17 2024 (for the restitution hearing) and February 13, 2024 (for the sentencing hearings). 18 4 This continuance is not sought for purposes of delay, but to ensure that all parties 19 can be present at hearings in compliance with Federal Rule of Criminal Procedure 43(a)(3) and 20 to provide any new counsel adequate time to prepare. 21 5. For the reasons stated above, the ends of justice would best be served by a 22 continuance of the deadline. Denial of this request for continuance of the deadline could result in 23 a miscarriage of justice. 24

Defendants are out of custody and do not object to the request for continuance.

6.

1 **ORDER** 2 IT IS HEREBY ORDERED that the restitution hearing currently scheduled for January 3 11, 2024, at 2:30 p.m. is reset to 1:30 p.m. on February 8, 2024, in Courtroom 6C; and 4 IT IS FURTHER ORDERED that the sentencing hearings currently scheduled for 5 January 17, 2024, at 1:30 p.m., 2:30 p.m., and 3:30 p.m. are hereby reset to: 6 7 February 13 1:30 p.m. on \_\_\_\_\_, 2024, for Philip D. Hurbace; 2:30 p.m. on February 13 8 \_\_\_\_, 2024, for Larry Anthony McDaniel; and 3:30 p.m. February 13 9 , 2024, for Sylviane Della Whitmore; 10 all in Courtroom 6C. 11 DATED: January 9, 2024 12 13 14 HON. ANDREW P. GORDON 15 UNITED STATES DISTRICT JUDGE 16 17 18 19 20 21 22 23 24